

REMARKS

Power of Attorney

The subject file has recently been transferred to the undersigned for prosecution. Please enter the Power of Attorney by Assignee of Entire Interest filed August 18, 2006, and direct all future communications to the undersigned. Please also associate this application with Customer Number 34205.

Status of Claims

Claims 1-11 are pending in the application. Claims 1-11 are rejected. Claims 1, 3, 4, 9, 10 and 11 have been amended. No new matter has been added. Support in the specification can be found at, among other places, paragraph 0099 (referring to US Publ. No. 2005/0288544 A9) and Figure 4. .

Rejection Under 35 U.S.C. §102(e)

The Examiner rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,607,525 to Franco. The Examiner states that Franco discloses a urethral guide (40) with a distal guide portion including element (62) and a urethral positioning surface (62). Element (10), states the Examiner, is configured to be placed in the vagina the outside surface being a treatment delivery surface. The Examiner further states that the proximal portions of the two devices (i.e. 40 and 10) register with each other with the use of marker lines including at least elements (48) and (50)

Applicant has amended the claim to include a limitation to the urethral guide “including at least one urethral guide palpation member thereon” the at least one urethral guide palpation member registering with the proximal probe portion so as to register the treatment delivery surface of the probe with the target support tissue. Therefore, Franco does not disclose each and every limitation of claim 1 and does not anticipate it.

Applicant believes claim 1 patentably distinguishes over France and reconsideration is respectfully requested.

Rejection Under 35 U.S.C. §103(a)

The Examiner rejected claims 2, 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over Franco in view of U.S. Pat. No. 5,090,424 to Simon et al. The Examiner states that Franco teaches the claimed invention except a meatus engaging surface, which the Examiner alleges is disclosed by Simon. The Examiner further rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Franco, Simon and further in view of U.S. Pat. No. 5,795,288 to Cohen et al. The Examiner states that the combination of Franco and Simon et al. teach a device as claimed by does not teach the meatus engaging surface being axially movable to adjust for difference in length from one urethra to the next, which the Examiner alleges is taught by Cohen et al. The Examiner states it would have been obvious to one skilled in the art to incorporate the concept of axially adjustable anchors as allegedly taught by Cohen et al. with the combination of Franco and Simon et al.

Applicant has amended claim 2 as discussed above. Claim 9 has been amended to include a limitation to “at least one urethral guide palpation member” positioned on the urethral guide and “at least one probe body palpation member” positioned on the probe body for effecting registration of the probe body in relation to the urethral guide. Claim 10 has been amended to include a limitation to “at least one urethral guide registration member” positioned on the urethral guide to effect registration of the probe body relative to the “at least one urethral guide registration member.”

Neither the combination of Franco and Simon et al. nor the combination of Franco, Simon et al. and Cohen et al. teach, suggest or disclose a palpation member or a registration member positioned on the urethral guide as claimed by amended claims 9 and 10. Reconsideration is respectfully requested.

Double Patenting Rejection

The Examiner rejected claims 1-11 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Pat. No. 6,091,995. Applicant traverses the rejection and respectfully requests reconsideration. None of claims 1-38 of the ‘995

patent even remotely suggests an incontinence treatment system that includes a urethral guide that registers with a probe body, the probe body delivering energy to a target tissue. The claims are merely directed to a probe that delivers energy to a pelvic support tissue. Applicant's claims are not an obvious variation over the claims of the '995 patent as the '995 patent does not teach or suggest (i) "a urethral guide including at least one urethral guide palpation member thereon . . . the at least one urethral guide palpation member registering with the proximal probe portion so as to register the treatment delivery surface of the probe with the target support tissue of the patient when the at least one urethral positioning surface engages tissue adjacent the urethra" as claimed by claim 1; (ii) a "urethral guide including at least one urethral guide palpation member thereon . . . [a] probe body including at least one probe body palpation member thereon . . . the at least one urethral guide palpation member registering with the at least one probe body palpation member so as to register the treatment delivery surface of the probe with the target support tissue of the patient when the at least one urethral positioning surface engages tissue adjacent the urethra" as claimed by claim 9; or (iii) a "urethral guide including at least one urethral guide registration member thereon . . . registering a treatment delivery surface of the probe body by movement of the probe body relative to the urethral guide registration member and to a target support tissue of the patient, the target support tissue offset laterally from the urethra and disposed axially between and separated from the bladder neck and the urethral meatus, registration being effected by registering the urethral registration member with the proximal end of the probe body" as claimed by claim 10.

Similarly, the Examiner rejected claims 1-11 under the nonstatutory obviousness-type double patenting rejection as being unpatentable over claims 1-27 of U.S. Pat. No. 6,081,749. Applicant traverses the rejection and respectfully requests reconsideration. None of claims 1-27 of the '749 patent even remotely suggests an incontinence treatment system that includes a urethral guide that registers with a probe body, the probe body delivering energy to a target tissue. The claims of the '749 patent are merely directed to a probe having a cooling system and a control system for delivering energy to a pelvic support tissue. Applicant's claims are not an obvious variation over the claims of the '749 patent as the '749 patent does not teach or suggest (i) "a urethral guide including at least one urethral guide palpation member thereon . . . the at least one urethral guide palpation member registering with the proximal probe portion so as to

register the treatment delivery surface of the probe with the target support tissue of the patient when the at least one urethral positioning surface engages tissue adjacent the urethra” as claimed by claim 1; (ii) a “urethral guide including at least one urethral guide palpation member thereon . . . [a] probe body including at least one probe body palpation member thereon . . . the at least one urethral guide palpation member registering with the at least one probe body palpation member so as to register the treatment delivery surface of the probe with the target support tissue of the patient when the at least one urethral positioning surface engages tissue adjacent the urethra” as claimed by claim 9; or (iii) a “urethral guide including at least one urethral guide registration member thereon . . . registering a treatment delivery surface of the probe body by movement of the probe body relative to the urethral guide registration member and to a target support tissue of the patient, the target support tissue offset laterally from the urethra and disposed axially between and separated from the bladder neck and the urethral meatus, registration being effected by registering the urethral registration member with the proximal end of the probe body” as claimed by claim 10. Reconsideration is respectfully requested.

Terminal disclaimers over U.S. Pat. No. 7,052,453 and 6,685,623 are being filed concurrently herewith.

Conclusion


Applicant has made a novel and unobvious contribution to the field of urinary incontinence. Applicant respectfully submit that with the arguments and amendments presented herein all pending claims are allowable over the art of record, for at least the reasons discussed above, and respectfully request that a Notice of Allowance with respect to all pending claims be issued in this case.

If the Examiner believes that a teleconference would be of further value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below. The present response is being filed within the three-month statutory period for response and no fee or petition for an extension is due. If, however, it is believed that any additional fees are necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference #687-3087/US).

Dated: September 14, 2006

Respectfully submitted,

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